from the Author
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OBSERVATIONS

ON THE PAMPHLET OF

WM. PULTENEY, ESQ.

BY

A LATE MEMBER OF PARLIAMENT.

[Price One Shilling and Six-pence.]

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SOME

OBSERVATIONS

ON THE

SECOND EDITION

OF THE PAMPHLET OF

WM. PULTENEY, ESQ.

ENTITLED,

"THE EFFECTS TO BE EXPECTED FROM THE EAST INDIA BILL ON THE CONSTITUTION, &c."

BY

A LATE MEMBER OF PARLIAMENT.

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OBSERVATIONS

ON THE PAMPHLET OF

WM. PULTENEY, ESQ.

AS I have not lately had much leiſure for the reading of pamphlets, it is no wonder that Mr. Pulteney's very artful pamphlet had arrived at a ſecond edition, before I had heard of it. The firſt notice I received was from a nobleman of great political experience, and very converſant in the

hiſtories and conſtitutions of this and other States, whoſe judgment having been captivated by the arguments contained in this pamphlet, it was natural enough to conclude that my heterodox opinion would eaſily be confuted, and that the noble lord would have had the honour of making one convert at leaſt to the newly eſtabliſhed conſtitutional orthodoxy. I have, therefore, given this pamphlet a very attentive conſideration, and, as far as my capacity and experience will allow me, have weighed moſt ſeriouſly, and, I hope, with perfect candour, the conſtitutional principles ſo ably laid down by the author; and I was the more inclined

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to give the pamphlet this patient examination from the experience I have often had in parliament of that gentleman's knowledge, ſenſe, and abilities, and in caſes, where we have differed, feeling the weight of ſo powerful an antagoniſt, eſpecially in the management of great private bills.

I ſhall begin with applying to political diſquiſitions that principle, which the elegant and accurate hiſtorian, Mr. Gibbons, has ſo ably inculcated, as one of the methods of diſcovering the truth of any hiſtorical point, that the reader may, with ſafety, admit thoſe points to be true, which,

even an antagoniſt, is obliged to grant; and, in this caſe, the reader may be well aſſured that the author of the pamphlet is not a man who will lightly admit any queſtion; on the contrary, he will find that every conceſſion has been weighed in the niceſt political balance, and that nothing but the moſt poſitive conviction could have ſuffered it to preponderate.

I am happy to find that the firſt of theſe conceſſions allows, that gentleman of known integrity and love for their country have taken different ſides in this great queſtion—ſo far goes the fact; but, if the reader ſhould

ſhould imagine that the author allowed that the meaſure itſelf was doubtful, he will find himſelf ſomewhat miſtaken; for, though the author ſtates that, "*therefore the queſtion muſt either be doubtful in itſelf, or the true grounds of it have not hitherto been clearly explained*;" yet the laſt he takes to have been the fact, qualifying the expreſſion with the words "*in ſome degree.*" And ſo theſe gentlemen, of known integrity and love for their country, turn out to be men, who have not the means of information in themſelves, and who have been ſo particularly unfortunate as never to have met with a ray of light, till the ſun broke forth,

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and the political miſt was diſpelled from their eyes by the production of this pamphlet.

I will allow the pamphlet its merit, but I will not, on that account, depreciate ſo far from the knowledge of that very reſpectable majority, who ſupported the India bill, as to ſuppoſe they were all blind; and I am ſomewhat ſurprized that the author ſhould let fall from him any idea ſo little calculated to convert; (for his intent in writing the pamphlet muſt be to convert his antagoniſts) and it ſeems a new method to try to gain the good opinion of any one, by telling him he has

has no eye-ſight, no means of information whatever. As theſe gentlemen know the contrary to be true, I believe, it is not very probable that they will be deceived out of their ſenſes, or find it in the leaſt neceſſary, to have this wild clary introduced into their eyes, for the honour even of ſo able a political oculiſt.

But I muſt aſk pardon of the author, for he ſeems aware that ſome ſuch concluſion might be drawn from his words, and has, therefore, added "in ſome degree." I wiſh he had ſtated the degree more preciſely; I will, however, endeavour to diſcover,

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as I go along, how far the author imagines that theſe gentlemen have been deceived. He does indeed allow, that it was a buſineſs of great magnitude; I ſhould have conceived that the magnitude of the buſineſs was a ſufficient reaſon for the difference of opinion between the moſt honeſt men, and that there would be no occaſion to recur to the other motives of ignoracne or deception; for I will be free to own, that, in a queſtion comprehending ſo many points of conſtitution and finance, it was not in the power of all the learning and knowledge of this country, to have ſtated them ſo ably, as to have convinced the judgments of man-

mankind, ſo as to have brought an uniform approbation to any plan; and my great admiration of the late India bill has ariſen from that very circumſtance, that a plan has been formed which met with the approbation of ſo large and reſpectable a majority in the Houſe of Commons, and, I will ſay, of an equality in the other Houſe.

Our author now begins to enter on his ſubject; and it ſeems ſomewhat odd to me, after hearing ſuch repeated charges, in parliament, of the violation of charters, that he quits this ground, and candidly owns that, as to that point, the moſt upright men may certainly

differ in opinion. I hope, whilſt I am owning his candour, he will not think me uncandid in ſuppoſing that his good ſenſe could not be impoſed upon by the flowers of oratory; that he knew well, that, in order to obtain great advantages, it was often politically right to ſacrifice many points of ſmaller conſequence; and that an able ſurgeon would not heſitate to proceed even to the amputation of a limb, where the ſafety of the whole body required it. I will not ſay *de minimus non curat lex*, becauſe the charter of ſo great a company ought certainly not to be conſidered as *in itſelf* of trifling moment, but I might be juſtified in aſſert-

aſſerting, when it is compared with the miſchiefs created by the rapine and plunder of the Servants of the Company in India, or with the happineſs and ſafety of ſo many millions of people, that not ſingly the charters, but the very exiſtence of the Company itſelf, are only feathers in the balance.

But the author well knows, that any India bill, in order to be effectual in the remedying the grievances complained of, muſt make very conſiderable alterations in the charters of the Company; and that, provided the Company was eſſentially kept in the

poſſeſſion of their property and the excluſive right of trading to India, any alteration in other reſpects was not very material to the proprietors, and could not ſo much be called a violation of charters as an alteration of the mode of conducting their affairs for their own benefit. It ſeemed univerſally agreed, that there were three material points in the preſent conſtitution of the Eaſt India Company, which required an immediate correction ;—the controul of the proprietors over the directors—the claſhing intereſts of the different directors—and the preventing of future wars by any Governor in India. Miniſtry were called upon repeatedly

peatedly not to bring forwards any half-meaſures ; they have brought forwards a bill that went to the root of every one of thoſe evils, and laid a foundation for peace and proſperity to the natives of India, riches to the proprietors, and ſtrength, ſtability and honour to the government of this country.

Theſe are not words of mere declamation, but ſtrictly true : for, to begin with the third point, that future wars ſhould not be entered into by any Government in India, without the authority of this State, is, except in caſes of very immediate neceſſity, a propoſition

ſition that would be admitted even by the moſt ſanguine admirer of Mr. Haſtings; and there is no doubt but the prevention of the horrors of war would add happineſs, induſtry, and riches to India; that our trade would neceſſarily increaſe with that induſtry; that the fair and honeſt riches of the proprietor would flouriſh with that trade; and that the government of this country, gaining ſingly the juriſdiction and the expence of the neceſſary eſtabliſhments, and preſerving for the proprietors the ſurplus of the territorial revenue, to be applied in the proper channel of an increaſing trade, would add ſtrength and ſtability to the go-

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vernment of this country, whilſt foreign nations would ſtand in admiration of the honour of our government, that was not tempted to plunder the proprietors of their territorial revenues, as a bill brought in, by one of theſe pretended enemies to the violation of charters, did not heſitate to adopt.

As far as relates to the ſecurity of the property of the proprietors, I have the opinion of gentlemen who have reſided many years in India, who have large fortunes and are old proprietors, and who have oppoſed both in and out of parliament the late India bill, that, if they were to conſider merely the effect

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of the bill, as to the ſtock of the proprietors, they muſt own that the bill would nearly double its value, ſo that there ſeems not the leaſt foundation for any charge againſt this bill, as if it injured the property of any man.

But it is reckoned by ſome particularly ſevere to take away from the proprietors their right of conſidering their own affairs, and managing their own property. As to the right of conſidering their affairs, I believe the greateſt misfortunes that have ariſen to the Company are derived from this very right. The bulk of real proprietors cannot attend; the political proprietors attend regularly, not caring in

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the leaſt how their trivial property is managed, provided they carry the points in which their friends may be engaged; they divide into their different parties, and it is one continued ſcene of confuſion; no buſineſs is done, but the India Houſe is merely a theatre, on which the different combatants engage to ſhew their reſpective abilities, eſpecially if they be young lawyers, who, by their exertions in the cauſe they happen to eſpouſe, hope to open to themſelves future emoluments and honours in their profeſſion. Though I may allow the India Houſe to be an excellent ſchool for oratory, I can by no means approve of

this mode of conducting the affairs of a trading company—I fancy no man can ſeriouſly be an advocate for it; and, I really believe, that the part of the late India bill, which was intended to regulate this grievance, has met with the approbation of moſt of the real Proprietors.

With regard to the claſhing intereſts of the Directors, the annual alteration of part of that body muſt naturally produce that effect. I do not chuſe to enter into any invidious arguments on the merit, or on the demerit of any of the gentlemen in the direction. I will ſuppoſe each of them to have fairly

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diſcharged his duty, as far as his prepoſſeſſions and friendſhips will let him; but theſe friendſhips muſt, in the nature of things, have ſuch an influence on the conduct of theſe gentlemen, even ſuppoſing them to be the moſt honeſt men, that the debates of the Directors will, probably, take up ſo much of their time, that there is not time for real buſineſs; and, perhaps, it is not near ſo material to the public at large, or to the India Proprietors, which ſide in a debate get the better, as it is, that there ſhould be a regular ſyſtem without fluctuation, which nothing can produce, but a Direction irremoveable for an adequate but li-

mited time, except by the King, or an addreſs from either Houſe of Parliament.

And yet, ſomehow or other, it happens very unfortunately, that what is here ſuggeſted as a meaſure to be adopted, becauſe it ſeems neceſſarily to follow from the former obſervations, is the object of our author's ſevereſt animadverſions. And ſo far I am ready to grant our author, that, even if this Direction, ſo irremovable, at the time that it remedied all the evils complained of in the preſent mode, ſhould materially injure the fabric of our preſent excellent conſtitution—it ought to be repro-

reprobated. Let me, therefore, attempt to conſider, with the utmoſt care, what the new Direction formed by the late bill was; what were the intentions of it, either as to the public or the propoſers of it; how far an *imperium in imperio* was conſtituted by it; how far it increaſed or decreaſed the power of the crown; how far it injured the prerogative of the crown; and how far it endangered the liberties of the people, either openly, or by any ſecret corruption of their repreſentatives in parliament.

What was this new Direction? an appointment of ſeven truſtees, whoſe rank

rank in life was ſuch, or whoſe characters were ſo univerſally eſtabliſhed, that the public in general could have no ſuſpicions of them, but would immediately be ready to believe that the buſineſs of the company would be conducted ſolely for the honour and profit of the proprietors.

The intentions of this new Direction, with regard to the public, were to begin the making a ſeparation between the territorial power and the trade; and it was hoped, by the promoters of the late bill, that the Directors, within the four years, would have been able to have effectuated this; and in caſe

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that this great object could be effectu ated in leſs time, as, for inſtance, within two years, the end of the Direction would have been anſwered, and a more permanent eſtabliſhment might be adopted, in which the territorial power might be united to the executive government, under proper reſtrictions, and the trade, and alſo the ſurplus of the territorial revenue, be conveyed again to the company, to be managed in ſuch manner as it ſhould judge expedient; for it by no means followed, that, becauſe parliament had entruſted a power for eſpecial purpoſes to a ſet of commiſſioners for four years, that, therefore, when all thoſe purpoſes were

were anſwered within two years, parliament would ſuffer a great power to continue the other two years, when it could be of no ſervice to, and might be of detriment to the Company.

Our author, indeed, thinks the whole commiſſion unneceſſary, and that it is ridiculous to ſay, that the power and authority over the natives cannot be inſtantly put into other hands, leaving the trade upon the ſame footing as before any territorial power was acquired. If this be ſo eaſy a matter, then certainly it would be wrong to conſtitute a commiſſion for purpoſes totally nugatory, for the buſineſs

ſineſs could be effectuated without it; but if this ſeparation (as I am informed by thoſe who know India better, not only than myſelf, but even, perhaps, than our author himſelf, having ſpent many years of their lives in it) cannot be properly made in this haſty manner, then, I fancy, the ridicule may chance to fall, not on ſuch as me, who am directed in my ſentiments by thoſe who have a practical knowledge of the ſubject, but on thoſe political Breſlaws, who adopt ſuch extravagant opinions, and then fancy that the reſt of the world will not underſtand their juggling. But the misfortune is, that the matters of revenue, of rents, and

of power, are ſo blended together in that country, that it will require great art, great moderation, and very great and humane alterations in the ſyſtem of their laws, without offending their cuſtoms, to make a proper ſeparation.

I could expatiate, but I will not, becauſe I wiſh to throw a veil over the horrors of that country, and becauſe I know that the author is incapable of any ſentiment, that an humane and thinking man muſt ſhudder at. His expreſſion is very haſty in ſtating the opinion as ridiculous; perhaps a few perſons may think with him, but he will find the bulk of thoſe gentlemen,

who

who, either in or out of parliament, oppoſed the late bill, decidedly of my opinion. I ſhall therefore conſole myſelf, admiring the boldneſs of the ridicule, but by no means thinking it the beſt method to cut a knot that may be untied, notwithſtanding the poet takes the author's ſide, in ſaying,

——————— Ridiculum acri
Fortius ac melius magnus plerumque ſecat res.

As to the other gentlemen, appointed by the bill to attend principally to the commercial intereſts, if a ſeparation

could have been made, as the author ſuggeſted, that part certainly ought to have been left to the management of the Company : But if (as I flatter myſelf that I have already proved) ſuch ſeparation was impracticable, it became neceſſary to conſtitute ſuch men as truſtees, who, at the ſame time in which they carried into execution the intentions of the public, had formerly been thought by the Proprietors themſelves, capable of conducting thoſe commercial intereſts ; conſequently they were choſen, if I miſtake not, out of thoſe gentlemen who had been Directors ; yet, as theſe gentlemen were alſo to aſſiſt in the executive part of

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ſuch ſeparation, and to follow the orders of the ſeven, who were to ſuperintend the political and public intereſt, it became neceſſary, from the nature of the truſt, that they muſt be made ſubordinate to the ſeven, 'till ſuch ſeparation of the commercial and political intereſts were made; for from that moment the very truſt to theſe gentlemen ought to ceaſe, and be reveſted again in the Direction of the Company, and the truſt of the ſeven ought to be conveyed to the crown, under ſuch limitations as ſecured the property of the Proprietors and the liberties of the people at large.

But

But the attention of the public is carefully drawn off by the author, from the real nature of the truſt ſo conveyed by the India bill, to the private views of the promoters of it; and the nation is taught to be alarmed at the amazing extent of power veſted in theſe men, which is deſcribed to be the whole power and patronage of India; and the author is poſitive in his declarations, and attempts to make it out in proof, that this power and patronage is, according to their plan, to laſt not only during four years, but as long as India ſhall belong to this kingdom.

As to their private views, the author reaſons from the principles of the party

party which brought in the bill; he does them the honour to ſtate, with accuracy, that to that party this country owed, in a great meaſure, the revolution; he might have gone farther, and attributed no inferior ſhare to them in ſecuring the rights and liberties of this country, by fixing on the throne of theſe kingdoms the preſent royal family; however, as he thinks the gratitude of the nation can never over-pay them, unleſs by ſurrendering both King and people into their hands, I am perfectly ſatisfied with this part of the author's declaration, as I hope and truſt he will be with mine, when I aſſure him that I have not

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the leaſt deſire to truſt either King or people into the hands of any man, and, I may add, I will not truſt either the people into the hands of any King, or any King, of this limited monarchy, into the hands of the people.

I am ſatisfied with the preſent conſtitution of this country, provided it be unimpaired, and I ſigh not after the government of a pure Ariſtocracy, without a limited monarch, becauſe it cannot laſt long; I believe, no one wiſhes to have an abſolute monarch, and a finatic republic is my peculiar deteſtation.

I will

I will agree with the author in ſuppoſing that it is not any part of the principles of this party to increaſe the influence of the crown in general, and, perhaps, as the author ſuggeſts, it is not the intereſt of that party to do ſo; but, in the preſent inſtance, whatever their principles or intereſt may be, the power muſt be given to ſome one, for the power cannot, with ſafety, either to the State or even the Proprietors, remain where it is; and where the neceſſity of regulating theſe affairs became the duty of the late adminiſtration, I think it peculiarly hard that ſiniſter motives ſhould be imputed to them, when it was neceſſary, both

from their principles and their intereſt, to modify, in ſome meaſure, the increaſing influence. I think, if a different conduct had been purſued, that adminiſtration might, with more juſtice, have been accuſed of betraying the public, and giving up thoſe ſacred principles, on which our author allows that party had formerly fixed the baſis of the revolution.

How could the late adminiſtration act otherwiſe than it did, ſuppoſing for one moment that party acted on the pureſt principles of the conſtitution? it muſt have feared that the increaſe of influence, if this power ſhould

ſhould have been conveyed to the crown, would totally have undermined the conſtitution. It, therefore, became neceſſary to examine carefully what increaſe of influence there might be, and to veſt the whole in truſtees to ſeparate, with the utmoſt caution, the commercial intereſts, and the right of property belonging to the Proprietors, after paying the eſtabliſhments from the territorial juriſdiction, which laſt alone need be united to the executive government, and that alſo under ſuch limitations, as hereafter Parliament might think proper to adopt; (ſuch as voting in Parliament the eſtabliſhment for India, the ſum it ſhould

coſt, &c.) in this method, and, perhaps, in this only, might the power of India be united to the executive government, with ſafety to the nation.

When, therefore, the late adminiſtration adopted that plan of veſting in truſtees, for the purpoſes deſcribed, the affairs of India, the public has the ſtrongeſt reaſon to believe, whatever our author may inſinuate to the contrary, that it acted on its ancient principles, on revolution principles, in being cautious how ſuch great powers (as the author ably enumerates them, though for another purpoſe) were united to the executive government.

And,

And, therefore, ſeveral members of the ſtricteſt honour took their ſtand againſt this India bill, being well convinced, that, let the powers be modified ever ſo much, the increaſe of power to the crown would be dangerous to the liberties of the people. Theſe gentlemen would not give the leaſt increaſe to the crown. For my own part, I ſo far think with theſe gentlemen, that I would not wiſh to add an unneceſſary increaſe of influence to the crown; but I cannot ſee how the affairs of India can ever be properly ſettled, without a very great increaſe to the crown; all I contend for is, that it is prudent to ſee, firſt, by this or a

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ſimilar commiſſion, what parts can be ſafely ſeparated from the territorial juriſdiction, and, when you are certain of your point, then unite the reſt to the executive government, under ſuch reſtrictions as are neceſſary to preſerve the liberties of the people.

Having thus conſidered, ſomewhat at large, what the intentions of the late bill were, either as they concerned the public or the propoſers, the other queſtions will eaſily find an anſwer. It created no more an *imperium in imperio*, than the preſent mode of conducting the affairs of India does. The preſent Directors are under the

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controul of Parliament, and the courts of law; ſo would this court of truſtees have been, with this particular advantage, as to the latter, that any of them might have been removed by an addreſs of either Houſe of Parliament to the crown, which obviates another objection, that this truſt muſt neceſſarily continue, even if the miniſtry, which created the truſtees, were diſmiſſed; for I really ſhould conceive, that whoever wiſhes to be miniſter, would only do it becauſe he thinks he is certain of the ſupport of one of the Houſes. Indeed, if all the truſtees execute their truſt to the ſatisfaction of the public, I do not ſuppoſe that any miniſter would

wiſh

wiſh to remove them; and if they acted otherwiſe, I ſhould imagine and hope that both Houſes would join in ſuch an addreſs.

How far then does the late bill increaſe or decreaſe the power of the crown? The anſwer is plain;—the crown at preſent has no ſuch power, therefore it cannot be ſaid to decreaſe what the crown never had. It would ultimately increaſe the power of the crown greatly; but, I hope, properly, and with ſafety to the conſtitution.

Does then the late bill injure the prerogative? certainly not; it is intended

tended only as a commiſſion to inquire what part of the territorial juriſdiction may with ſafety be conſolidated with the prerogative, for the benefit of, and without the poſſibility of injuring the intereſts of the public.

Neither can this bill openly endanger the liberties of the people. It was meant for its protection, to prevent the crown having a greater acceſſion of ſtrength than was neceſſary for energy.

But ſecret corruption may ſap this excellent conſtitution—and therefore does the author wiſh to throw the

whole power into the crown in order to prevent ſecret corruption, or would he wiſh to leave India and its Company in its preſent diſtraction? I leave the author his option; he muſt either apply a remedy totally inadequate to the evil, or give a ſufficient power ſomewhere. When the quantum of that power is properly aſcertained, by this or a ſimilar commiſſion of enquiry, and the nation can ſee, with preciſion, under what regulations it may be proper to intruſt that enormous power to the crown—then, and not till then, may it be done with ſafety to this conſtitution.

I am

I am ſorry that the author ſhould chuſe to appear to be indebted to a foreigner for his knowledge of the advantages of our excellent conſtitution. When men have lived to his or my age, I do not fancy we ſtand in need of any ſuch new lights as to the fundamental principles of the conſtitution. That the executive power of the State is, and ſhould be, in the crown, is a propoſition which no one will controvert; and, at the ſame time, I think it is equally clear, that there are many ſubordinate executive powers, which are for ſpecial purpoſes, which do not claſh with the former propoſition. I maintain, as well as the

author, that ſo far as may be the unity (if I may call it ſo) of the executive power ought to be preſerved ; but many caſes muſt exiſt, at leaſt for a time, when the executive power may either be ſeparated into parts, or when new extraneous acceſſions to that executive power may ariſe, which may require ſome caution before they can be properly introduced into it, ſo as to form one body with it. The caſe of new acquired territories by conqueſt, or otherwiſe, forms one of thoſe extraneous acceſſions. The late adminiſtration gave a ſtrong proof of their love for their country, and their care of its eſſen-

eſſential liberties, when they formed the late bill, in which they endeavoured to join India to the State, without injury to the proprietors, with ſafety to the nation, and with a great addition of a well regulated prerogative to the crown.

I do not chuſe to enter into the conſideration of other bills, which have been or may be offered, and conſequently ſhall not attempt to anſwer the author's poſtſcript. When bills ſhall be nearly formed, and have gone through a committee, it will then be uſeful to examine them; at preſent, much time might be loſt to little purpoſe.

poſe. I muſt, however, ſay it is a moſt ſtrange doctrine advanced by our author, which, I truſt, no friend to this conſtitution will admit, that "the giving abſolute power to a Governor General in India, removable by the crown, does not endanger this conſtitution like the preſent bill." Surely every perſon muſt ſee that the Governor, whoſe abſolute authority depends on the will of the miniſter of the crown, will be cautious, at leaſt, to ſay no more, how he dares to oppoſe that power, which may reduce him to poſitive annihilation. But though it is not uncommon, with ſome advocates for charters, and the ſacred

rights

rights of mankind, to trample on that conſtitution which they pretend to defend: yet I will do the author the juſtice to ſuppoſe that, merely in the warmth of compoſition, the ink flowed rather too freely from his pen; and I am always ready to pardon errors, which, though not trivial, may be ſuppoſed to have ariſen from haſte.

Quas incuria fudit
Aut humana panem cavit natura.

And I hope the reader will give me leave to claim the ſame indulgence.

21*ſt January*, 1784.

FINIS.

[47]

FINIS.